IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 373 OF 2006

Janakalyan Sahakar Bank Ltd. .. Petitioners

V/s

Sai Fashion Exports Pvt. Ltd. & Anr. .. Respondents

Mr.Shailesh Shah with Mr.Rishab Shah i/b V. Deshpande & Co. for the Petitioners.

Mr.S.G. Jagtap i/b Mr.Sunil Kadam for Respondent No.1.

CORAM : H.L. GOKHALE & ABHAY S. OKA, JJ.

DATE : 17TH FEBRUARY 2006

P.C. :

1. Heard Mr.Shah for the Petitioners. Mr.Jagtap appears for Respondent No.1.

2. Mr.Shah points out that the order passed by the D.R.T. on 14th February 2006, which is challenged in the present petition, proceeds on an erroneous basis. The order directs handing over possession of the concerned factory and other premises to the 1st Respondent by taking a view that the entire course adopted by the Petitioners was erroneous. Mr.Jagtap for the 1st Respondent, on the other hand, points out that against this very order an appeal is available under section 18 of the Securitization and Reconstruction of

Financial Assets and Enforcement of Security Interest Act, 2002 and that the Petitioners must exhaust that remedy first.

3. In view of the fact that an internal statutory remedy is available to the Petitioners, in our view, the Petitioners must exhaust that. However, the Petitioners will have to be protected in the meanwhile in the sense that if the order to hand over possession to Respondent No.1 is implemented, nothing will remain in the appeal which the Petitioners would be filing. Mr.Jagtap was therefore asked as to whether Respondent No.1 was ready to maintain status quo in the meanwhile. Mr.Jagtap stated that the impugned order will not be acted upon for a further period of 3 weeks hereafter and that status quo with respect to the property will be maintained. We record this statement of Mr.Jagtap. The impugned order will not be enforced and the status quo will be maintained with respect to the property for a period of 3 weeks from today.

4. Writ petition stands disposed of.

(H.L. GOKHALE, J.)

(ABHAY S. OKA, J.)